

REMARKS

Claims 1 - 16 remain active in this application. The specification has been reviewed and editorial revisions made where seen to be appropriate. Claims 1, 4, 7 and 12 have been amended to emphasize novel, originally claimed features of the invention. Support for the amendments of the claims is found throughout the application, particularly in Figure 1 and the description thereof on pages 2 - 6 and 8 - 11. No new matter has been introduced into the application.

Claims 1 - 4, 7 - 9 and 12 - 14 have been rejected under 35 U.S.C. §103 as being unpatentable over Reichelt in view of Agrawal et al. and claims 5 - 6, 10 - 11 and 15 - 16 have been rejected under 35 U.S.C. §103 as being unpatentable over Reichelt in view of Agrawal et al. and Katsuki. These grounds of rejection are respectfully traversed, particularly since the secondary references, Agrawal et al. and Katsuki do not contain the teachings or suggestions attributed to them by the Examiner and the principal reference to Reichert, while indicating that a concurrently filed application exists that may be more relevant to the present invention, is admitted by the Examiner to be deficient to answer the claims while the description of the related application appears to be markedly different in purpose and function from the present invention.

Specifically, it should be borne in mind that the invention is directed to control of operation of a mobile station at *the mobile station* and potentially independently of any action or operation at a central facility (and, hence, usable with existing systems) in response to battery condition and is effectively independent of any function at a central facility while not requiring awareness of battery condition by a user until an operation is called for which cannot be

performed reliably at a low state of battery charge. Further, the invention is directed to the handling of electronic mail messages which a user may decide to communicate on the "spur of the moment" but where the time of communication is ultimately less important than the reliability and integrity of the communication. For example, substantial time and care may be expended in composition of a message which must then be accurately communicated with a high degree of confidence while being protected from loss until accurate transmission and reception can be assured or confirmed. To accommodate this function while exploiting the likelihood that an electronic mail message may be composed locally on a mobile terminal using far less power than is required for transmission, the composition of the message is permitted but, if the charge level of the battery is low when transmission is desired, transmission is blocked or interrupted and the message stored locally until sufficient supply of power for reliable transmission can be assured by detection of power supply voltage local at the mobile terminal.

Reichelt is directed to a mobile terminal having a reserve power supply for emergency messages. When it is detected that the charge state of the power supply drops below a threshold, it restricts operations of the mobile terminal *related to reception of messages and under control of a central facility* in order to protect the ability of the mobile terminal to send and receive messages which correspond to user selected "emergency" communications (e.g. which require *timely* communications). See column 1, line 66 to column 2, line 1, and column 2, lines 27 - 38. The related and concurrently filed application mentioned at column 1, line 61, to column 2, line 10, appears to be directed to the prevention *from the network of initiating of calls* by the network and the mobile terminal other than such user-designated "emergency" communications. In

this regard, the Examiner has admitted that Reichelt does not teach or suggest a reservation controller, especially for controlling storage of reserved-data or a reserved-data transmission controller for transmitting a stored message upon detection of sufficient power availability to perform communication reliably. Indeed, such a function would be completely inappropriate to the communication of emergency messages or the restriction of activities at the mobile terminal in order to do so, even using reserve power.

The Examiner relies upon Agrawal et al. to supply teachings, suggestions or evidence of the level of ordinary skill in the art to answer these recitations (which are essentially the principal recitations of the claims). However, it is respectfully submitted that Agrawal et al. does not contain the teachings, suggestions or evidence which the Examiner attributes to it and, further, the combination of Agrawal et al. and Reichelt in the manner suggested by the Examiner would be improper since the primary and intended function of Reichelt (e.g. to protect reserve power for *immediate* communication of "emergency" messages; the *timely* communication of which is of primary importance) would be lost (see *In re Gordon*, 221 USPQ 1125 (Fed. Circ., 1984)).

Specifically, Agrawal et al. is directed to control of transmission *from a central station* and assigning communication priority based on battery charge condition information transmitted from the mobile terminal to the central station. That is, Agrawal et al. recognizes that even stand-by or sleep mode operation consumes a finite amount of power and prioritizes communications based on battery charge state such that some communications, especially those designated to be of high priority, are communicated in order of severity of battery discharge state so that such communications might possibly be completed before

the battery charge state of a particular mobile terminal deteriorates or "diminishes" further (column 1, lines 61 - 67). This same technique can be applied at the level of TDMA time slots or sub-frame portions thereof, as discussed in column 2 of Agrawal et al. but Agrawal et al. is not seen to provide prevention or interruption of transmission in combination with message storage and transmission from storage when sufficient power to reliably do so is later detected, much less independently of a central station. The passage of Agrawal et al. relied upon by the Examiner describes placement of battery condition information in a transmission queue to provide information to the central station such that the central station may control the establishment of priority between mobile stations and, while some storage may be involved in the queue, it is not storage of a user-composed message or in combination with transmission prevention or interruption and/or later transmission upon adequate power being detected which would defeat the intended function of Agrawal et al. Additionally, in the ground of rejection including reliance on Katsuki, the Examiner admits that no such storage or control of later transmission is taught or suggested in the combination of Reichelt and Agrawal et al. Moreover, even had such a function been taught or suggested in Agrawal et al. or evidence provided of a level of ordinary skill in the art to support a conclusion of obviousness in Agrawal et al. (which it is not since the combination of Agrawal et al and Reichert does not lead to an expectation of success in realizing the meritorious function of the invention, particularly by the means or method claimed), the combination and proposed modification of Reichert (or Agrawal et al.) would be improper since the intended function would be lost by preventing the timely communications on which these arrangements respectively rely to function as

intended (e.g. either delay in communication of emergency messages or battery charge state information). Therefore, it is respectfully submitted that the Examiner has not made and cannot make a *prima facie* demonstration of the claimed subject matter based on Reichert and Agrawal et al. and the ground of rejection based on these reference is improper.

These deficiencies of the combination of Reichert and Agrawal et al. references to support the conclusion of obviousness which the Examiner has asserted are not mitigated by Katsuki and the Examiner has not asserted any teaching or suggestion in Katsuki which would do so. Katsuki is cited for the limited purpose of teaching that electronic mail may be created in a wait state (the Examiner repeatedly citing column 3, lines 28 - 34) from which the Examiner concludes that storage would be obvious. However, Column 3, lines 28 - 34, on which the Examiner repeatedly relies, discusses only the necessity of inclusion of an information network center for supervising WWW information which includes an E-mail server for supervising E-mail data, a supervising server for "supervising the state of of the radio portable information terminal" and a controller for controlling the information network center. While not mentioned by the Examiner, column 4, lines 29 - 58, clearly indicate monitoring of battery condition and radio field strength and collection of such information *at the information network center* to exercise control over communications, apparently much in the manner of the arrangement of Agrawal et al. The paragraph bridging columns 4 and 5 refers to controller 15 "controlling the radio portable terminal in its entirety" and a "modem 14 for processing the data *formulated by the controller*" (emphasis added). No disclosure of storage of E-mail data, particularly as developed during the wait state is seen and, further, no teaching or suggestion of such storage in

combination with prevention or interruption of transmission responsive to low battery charge state and transmission when sufficient power is detected, as claimed, is seen, particularly performed within the mobile terminal. By the same token, a modification of Reichert (and Agrawal et al.) in accordance with Katsuki would be improper since intended functions would be lost while still not answering the subject matter of the claims.

Accordingly, it is respectfully submitted that the Examiner has not made and cannot make a *prima facie* demonstration of obviousness of any claim based on the (improper, as discussed above) combination of Reichert, Agrawal et al. and Katsuki. Therefore, it is respectfully submitted that the grounds of rejection asserted by the Examiner are in error and untenable.

In this latter regard, it is also respectfully submitted that claims 1 - 6 are directed to a mobile terminal comprising a combination of elements while claims 7 - 16 are directed to a communication method for a mobile terminal and comprising steps corresponding to functions performed in the mobile terminal. Therefore, the claimed subject matter supports autonomous operation of the mobile terminal, itself, to achieve the meritorious functions of the invention, possibly independently of functions at a central station (and thus usable with existing systems without modification of the existing systems) while the prior art relied upon by the Examiner *all involve necessary and essential functions to be performed at a central station*. To emphasize this major point of distinction of the claimed subject matter from the prior art applied, multiple references to the mobile terminal have been made in each independent claim, repeating the language of the respective claim preambles. Therefore, it is respectfully submitted that the grounds of rejection asserted by the Examiner

are clearly in error and untenable as to the claims as originally filed and are even more clearly untenable in regard to the claims as now amended.

Accordingly, it is respectfully submitted that the asserted grounds of rejection are clearly in error. The prior art of record does not contain the teachings, suggestions or evidence of the level of ordinary skill in the art to support the conclusion of obviousness which the Examiner has asserted. Therefore, reconsideration of the application and withdrawal of the grounds of rejection of record is respectfully requested.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,



Marshall M. Curtis
Reg. No. 33,138

Whitham, Curtis & Christofferson, P. C.
11491 Sunset Hills Road, Suite 340
Reston, Virginia 20190

Customer Number: 30743
(703) 787-9400